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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/811,202

03/26/2004

Robert B. Collier

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02/28/2007

GARDNER GROFF SANTOS & GREENWALD, P.C.

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SUITE 800

ATLANTA, GA 30339

EXAMINER

THOMAS, JAISON P

ART UNIT

PAPER NUMBER

1751

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

02/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|------------------|----------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/811,202 | COLLIER ET AL. | |
| | Examiner | Art Unit | |
| | Jaison P. Thomas | 1751 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 39, 43, 48, 52, 58 and 62 is/are allowed.
- 6) ☒ Claim(s) 1-24, 26-38, 40-42, 44-47, 49-51, 53-57 and 59-61 is/are rejected.
- 7) ☒ Claim(s) 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed on 11/20/2006.
2. Claims 1-62 are pending in this application.
3. Claim 5 has been amended.
4. Claims 39,43,48,52,58 and 62 have been indicated in the prior office action as being allowable.
5. Claim 25 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 1-13,15-24,26-38,40-42,44-47,49-51,53-57, and 59-61 stand rejected under Knowlton et al. (US Patent 5073442) in view of Derstadt et al. (US Patent 4116885) under 35 USC 103(a) for the reasons set forth in the previous office action and additional rationale discussed below.
7. Claim 14 stands rejected under Knowlton et al. (US Patent 5073442) in view of Derstadt et al. (US Patent 4116885) and further in view of Carter et al. (US Patent Application Publication 2002/0142937A1) for the reasons set forth in the previous office action.

Response to Arguments

8. Applicant's arguments filed 11/20/2006 have been fully considered but they are not persuasive.

With respect to the rejections based on the combination of Knowlton and Derstadt, Applicants argue that one of ordinary skill in the art would not have been motivated to incorporate the polyesters of disclosed in Derstadt et al. with the compositions of Knowlton since there is no suggestion or teaching to combine such references, and even if there was, one of ordinary skill in the art would not have been motivated to combine "hydrophilic" polyesters with the "hydrophobic" compositions disclosed in Knowlton to make the present invention obvious. Applicants argue that the addition of the polyesters would go to decrease the hydrophobicity of the Knowlton composition and thus reduce the soil and stain resistance of the treated fibers of Knowlton.

The Examiner respectfully disagrees with the above arguments. First the Examiner notes that the claims as presented to do not require the compositions to have hydrophobic or hydrophilic character, only that the compositions contain a wax modified polymer with a zeolite and polyester. Examiner also notes that the references cited (Derstadt and Knowlton) are both directed to the analogous art of soil releasing fabric cleaning compositions (see Derstadt, Col. 3, lines 46-49 and see Knowlton, Col. 4, lines 62-64) which are both aqueous in nature (see Derstadt, Abstract and see Knowlton, Col. 2, lines 42-47). "It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose", see *In re Kerkhoven*, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980). Thus the references are not combined for the purposes of changing the hydrophobic or hydrophilic character of the cleaning

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compositions, but because they are both directed towards solving a similar problem of improving soil resistance and release properties in fabrics.

Applicants argue that one of ordinary skill in the art would not have been motivated to incorporate the detergency builders of Derstadt into the compositions of Knowlton since Derstadt teaches the compositions to be maintained in the pH ranges of 7 to 12 while the cleaning compositions of Knowlton are generally adjusted with citric acid to a pH of less than 7 which is supported by Applicants citations of the Knowlton examples. Applicant's state that the addition of the detergency builders of Derstadt would increase the pH of the Knowlton compositions above 7 and therefore would not have been obvious addition to one of ordinary skill in the art.

The Examiner respectfully disagrees with the above arguments. The Examiner notes that Knowlton allows for cleaning compositions wherein the aqueous solution can have a pH has high as 10 (see Claim 2, Col. 14, lines 39-41 and also Col. 2, lines 46-47). The examiner also notes case law i.e. "A reference is not limited to the working examples", see *In re Fracalossi*, 215 USPQ 569 (CCPA 1982). Considering that both Knowlton and Derstadt would therefore have overlapping pH ranges in which to operate, it should be obvious to one of ordinary skill in the art to add the polyesters of Derstadt to the wax emulsions of Knowlton.

Applicants also argue that both the Derstadt and Knowlton references are silent with respect to their ability to impart odor resistance to an article and therefore would not render the method claims 44-52 obvious absent any teaching, suggestion, or motivation in either Knowlton or Derstadt.

The Examiner respectfully disagrees with the above arguments. The examiner posits that cleaning compositions produced by the combination of Knowlton and Derstadt would reasonably possess the odor resistance properties of method claims 44-52 since both the Knowlton/Derstadt compositions and the compositions of the instant claims contain identical components made in a similar manner and are used in a similar way.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaison P. Thomas whose telephone number is (571) 272-8917. The examiner can normally be reached on Mon-Fri 8:30 am to 5:00 pm.


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11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jaison Thomas
Examiner
1/31/2007

JT


LORNA M. DOUYON
PRIMARY EXAMINER